IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7845 OF 2004

Sugriv Dattu Giram .. Petitioner.
Vs.
Dilip Trimbak Giram & Ors. .. Respondents.

Mr.M.R.Deshapande for the petitioner.

CORAM : D.B.BHOSALE, J.

DATED : 4TH OCTOBER, 2004

P.C.:

. Mr.Deshpande, learned counsel for the petitioner.

2. The petitioner's application under Order 26 Rule 9 of the Civil Procedure Code has been rejeced by the impugned order. The trial court while rejecting the application has rightly observed that the suit filed by the petitioner being a suit for injunction simplicitor there is no need to appoint a Court Commissioner. It is always open for the parties to prove their case as to whether there exist trees or alternative way in the disputed portion of the property by leading evidence. In the result no interference in the impugned order is called for in the instant petition. The writ petition, therefore, fails and is dismissed as such.

(D.B.Bhosale, J.)